

REMARKS

Applicant has amended claims 7 - 9. Claims 11-24 have been canceled. New claims 25-34 have been added. These amendments have been made to place them in better form for examination and to further obviate the 35 U.S.C. §112 rejections as set forth in the Office Action dated September 9, 2003. It is believed none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections are requested.

The Examiner has objected to the Abstract and paragraph [0113] for deletion of "novel" and a misspelled word. Applicant has amended the specification. Withdrawal of this objection is requested.

The Examiner has objected to the claims as lacking the ATCC Accession information. As stated below, Applicant will amend the claims with the ATCC Accession number upon allowance. Withdrawal of this objection is requested.

Claims 1-24 are rejected under 35 U.S.C. §112, second paragraph as being indefinite. Specifically, claims 1 and 14 for the ATCC Accession number. As mentioned, Applicant will amend the claims with the ATCC Accession number upon allowance.

Claim 7 is rejected for improper antecedence. Applicant has amended claim 7.

Claim 8 is indefinite in the recitation of "capable of expressing". Applicant has amended claim 8 as suggested by the Examiner.

Claim 9 is indefinite in the recitation of "such a process". Applicant has amended claim 9 as suggested by the Examiner.

Claims 15, 17 and 22 in the recitation of several phrases such as "relative maturity of approximately", "excellent yield", "above average general appearance", "adapted" and "regions". Applicant has cancelled claims 15, 17 and 22.

Claims 16 and 17 are rejected as indefinite for being unclear. Applicant has cancelled claims 16 and 17.

Claim 22 is rejected as being unclear. Applicant has cancelled claim 22.

Claim 23 is rejected in the recitation of "employing a soybean plant as a source of plant breeding material". Applicant has cancelled claim 23. New claims 25-34 have been added for clarification purposes. Withdrawal of these rejections is respectfully requested.

Claims 1-24 are rejected under 35 U.S.C. §112, first paragraph as containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As mentioned on page 29, a deposit of the SG5010NRR soybean seeds is being maintained until allowance of the claims of the present invention. At that time Applicant will deposit the seeds with ATCC and insert the Accession Number into the remaining claims. Additionally the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of these rejections is requested.

The Examiner has rejected claims 11-13, 15-17 and 19-24 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Applicant has cancelled claims 11-13, 15-17 and 19-24. Withdrawal of this rejection is respectfully requested.

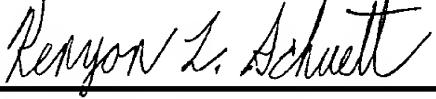
The Examiner has rejected claims 19-21, 23 and 24 under 35 U.S.C. §112, first paragraph for enablement. Applicant has cancelled claims 19-21, 23 and 24. Withdrawal of this rejection is requested.

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Claims 11-13, 15, 17, 21, 22 and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Luzzi et al. (US Pat. No. 6,087,562). Applicant has canceled claims 11-13, 15, 17, 21, 22 and 24 in favor of new claims 25-34. Withdrawal of this rejection is requested.

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §§102, 103 and 112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Kenyon L. Schuett, Reg. No. 44,324				
SIGNATURE			DATE	December 9, 2003	
Address	Jondle & Associates P.C. Suite 200, 9085 East Mineral Circle				
City	Centennial	State	CO	Zip Code	80112
Country	U.S.A.	Telephone	303-799-6444	Fax	303-799-6898